

DA 00-210

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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3. Petition for Reconsideration I. WSKG seeks reconsideration of the Report and Order's action in this proceeding which changed the coordinates for Channel *57- at Waverly and Channel *57 at Altoona to avoid a short spacing to an outstanding construction permit of Station WNYS-TV, Syracuse, New York. WSKG argues that in light of the change in coordinates the permissible site zone for the Waverly allotment is so restrictive that it has been unable to find a site fulfilling all FCC requirements that WSKG can obtain and expect to use. WSKG further argues that a terrain barrier stands between the permissible site zone and Waverly that would require a tower in excess of 1000 feet

to overcome. WSKG seeks to change the reference coordinates for the Altoona allotment in order to expand the Waverly permissible site location zone. WSKG acknowledges that this request may become moot in light of the fact that the vacant Channel *57 allotment at Altoona may eventually be deleted pursuant to the FCC's proposal in the Sixth Further Notice in MM Docket No. 87-268, 11 FCC Rcd 10968 (1996).

4. Discussion. In the Sixth Further Notice, the Commission proposed to eliminate all vacant analog allotments to facilitate development of the DTV Table. As a result, the vacant Altoona allotment was deleted and no new applications for any new stations on that allotment will be accepted. See Sixth Report and Order in MM Docket No. 87-268, 62 FR 26684 (May 14, 1997) ("Sixth Report & Order"). In light of the above, WSKG's request to change the reference coordinates of the Altoona allotment is moot. Accordingly, WSKG's Petition for Reconsideration will be dismissed.

5. Petition for Reconsideration II. Renard seeks reconsideration due to the potential conflict between the Waverly allotment and its proposed allotment of Channel 39 at Geneseo, New York, in MM Docket No. 96-19, Geneseo, New York, 11 FCC Rcd 2331 (1996). Renard states that Channel 39 was proposed for use as a DTV allotment for an existing Rochester, New York station. Renard contends that by allotting Channel *57- to Waverly, the Commission restricts other options which might be available for DTV allotments in Rochester, possibly precluding the proposed use of Channel 39 at Geneseo.

6. Opposition. WSKG contends that Renard's petition is meritless. WSKG argues that Renard is a disgruntled proponent of a TV station allotment that conflicts with the Commission's proposed DTV Table. WSKG further argues that Renard's comments relate solely to digital TV frequency allocation matters that are the subject of the Sixth Further Notice. Petitioner notes that while Renard suggests that the Waverly allocation somehow conflicts with its proposed Channel 39, Geneseo, New York allocation, Renard demonstrates no connection or potential conflict between use of Channel *57- at Waverly, and the Geneseo/Rochester conflict on Channel 39. Petitioner also notes that according to its consulting engineer, additional channels other than Channel *57- are available for potential DTV allotments to Rochester. The use of Channel *57- at Waverly does not foreclose alternate allotment possibilities for Renard's proposed Geneseo channel allotment.

7. Discussion. We deny the Renard Petition for Reconsideration. The WSKG proposal for a Channel *57 allotment at Waverly was granted because it did not conflict with any DTV allotment either proposed in the Sixth Further Notice or ultimately allotted in the Sixth Report and Order. On the other hand, the Renard proposal for a Channel 39 allotment at Geneseo was in conflict with the Channel 39 DTV allotment proposed for Rochester, New York, set forth in the Sixth Further Notice and with the Channel 39 DTV allotment ultimately allotted to Buffalo, New York. We reject the Renard argument that a Channel *59 allotment at Waverly somehow precluded consideration of an alternate DTV channel to either Rochester or Buffalo to the detriment of its proposed Channel 39 allotment at Geneseo. This argument is unsupported speculation and would not justify revisiting either the Sixth Report and Order or the Report and Order in this proceeding.

8. In a separate vein, we have recently released a Public Notice announcing an opportunity for

Renard and other parties with pending petitions for rule making to allot a new analog channel to amend their respective proposals to a channel that would not conflict with the DTV Table. See MMB Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations, DA 99-2605, released November 22, 1999. At this juncture, the appropriate procedure for Renard to implement an analog television service for Genesco would be to amend its petition for rule making in accordance with the Public Notice.

9. Accordingly, IT IS ORDERED, That the Petition for Reconsideration filed by WSKG Public Television Council, IS DISMISSED.

10. IT IS FURTHER ORDERED, That the Petition for Reconsideration filed by Renard Communications Corp. IS DENIED.

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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